

The Administrative Law Judge ordered the respondent to provide claimant with temporary total disability weekly benefits, pay outstanding medical expenses and authorized Michael H. Munhall, M.D., as claimant's treating physician. Respondent appealed and argued that claimant had failed to prove by a preponderance of the credible evidence that she sustained a work-related injury. Claimant countered and argued that she

presented evidence through her testimony and the medical records admitted into evidence that proved her left shoulder and left upper extremity injuries were work related.

Claimant testified that while she was performing her regular job activities of entering data on a computer for the respondent on December 28, 1995, she felt a sharp pain at the top of her left shoulder shoot down her left arm. She also eventually lost feeling in her left hand. Claimant immediately notified her supervisor of her extreme pain. The supervisor sent her home and told her to see a doctor because of the pain.

The following day, December 29, 1995, claimant sought medical treatment for her pain and discomfort from her primary care physician, Stephen Lemons, M.D., at the Andover Medical Clinic in Andover, Kansas. Claimant gave a history of working nine to ten hours per day, six or seven days per week sitting at a computer. Dr. Lemons placed her left arm in a sling and prescribed anti-inflammatory and muscle relaxer medications. Dr. Lemons diagnosed left shoulder pain and overuse syndrome. Dr. Lemons then referred claimant to Kansas Orthopaedic Center, P.A., in Wichita, Kansas. Claimant was seen by orthopedic specialist, Dr. Christopher Miller, and physiatrist, Dr. Michael H. Munhall. Dr. Munhall last saw claimant on March 14, 1996 and diagnosed thoracic outlet syndrome. Dr. Munhall was the last physician to treat the claimant. He took claimant off work at that time and prescribed physical therapy, home exercises and application of moist heat and ice.

The last medical record admitted into the preliminary hearing transcript was a work status slip signed by Dr. Munhall, dated March 27, 1996, continuing claimant off work. Claimant was also treated at the Wichita Clinic by Daniel V. Lygrisse, M.D., Thomas J. Peters, M.D., and Thomas W. Kneidel, M.D. At the time of the preliminary hearing, claimant remained symptomatic with her left hand swelling when she attempted to do anything.

The physicians who treated claimant and whose medical records are part of the preliminary hearing record had varied opinions on whether claimant's work activities caused her injuries. When claimant saw Dr. Lemons for the second time, Dr. Lemons attributed her shoulder and left upper extremity pain to overuse syndrome. After claimant was examined on January 24, 1996 by Dr. Lygrisse, he opined "[i]t is likely and is possible this could be work-related." Dr. Miller opined, "but given her history, I think that this is quite likely [work related]." Dr. Munhall did not give an opinion but advised the claimant to file the appropriate papers to determine whether or not her injuries were caused by her work. On the other hand, Dr. Kneidel's impression was that claimant's shoulder pain etiology was unclear with possible vascular, i.e. thoracic outlet syndrome related to obesity.

The Appeals Board is cognizant of the fact that Dr. Kneidel did not relate claimant's condition to her employment. However, the Appeals Board finds and concludes that the preliminary hearing record, as a whole, supports the Administrative Law Judge's Order that claimant's left shoulder and left upper extremity injuries were caused by the work activities that she performed while working for the respondent. Accordingly, the Appeals Board affirms the Administrative Law Judge's preliminary hearing Order dated May 2, 1996.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order of Administrative Law Judge John D. Clark dated May 2, 1996, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of July 1996.

BOARD MEMBER

c: Thomas M. Warner, Jr., Wichita, KS
Dana D. Arth, Lenexa, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director